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**DECISION**



*A. N. H. H.*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-189381

**DATE:** December 15, 1977

**MATTER OF:** Charles W. Smith - Real Estate Expenses -  
Finance Charge

- DIGEST:**
1. Transferred employees incurred loan origination fee in amount of 2 percent of mortgage on home purchased at new station. Loan fee is finance charge under Regulation Z and may not be reimbursed except for specific fees which are excluded by 12 C.F.R. 226.4(e) from computation of finance charge. Itemization of fee by lender consisted only of estimated charges assessed by other lenders for similar services. Reimbursement is denied because lender must identify with specificity its own actual fees which comprise the finance charge.
  2. Decision in George W. Lay, 56 Comp. Gen. 561 (1977) concerned payment of legal fees incurred under FTR para. 2-6.2c, and is not applicable to reimbursement of finance charges governed by FTR para. 2-6.2d and Regulation Z. Thus, legal or attorneys fees which comprise part of finance charge assessed under Regulation Z must be itemized, and reimbursement may be made only for specific services excluded from computation of finance charge.

By letter dated June 14, 1977, Mr. Dwain R. Winstead, Chief of the Fiscal Service, Veterans Administration Hospital, Tuscaloosa, Alabama, requested our decision concerning the claim of Mr. Charles W. Smith for reimbursement of certain finance charges incurred incident to the purchase of a residence at his new duty station.

The record indicates that upon transfer to Tuscaloosa, Mr. Smith purchased a house and financed it through the First

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Federal Savings and Loan Association of Tuscaloosa. The Housing and Urban Development Disclosure Settlement Statement shows that Mr. Smith paid a loan origination fee totalling \$476, representing 2 percent of the amount of the mortgage loan. Mr. Smith has not been reimbursed for payment of this fee.

In filing the present claim, Mr. Smith has submitted a statement dated June 3, 1977, signed by B. M. Leigh, III, Loan Officer at First Federal, which explains the loan origination fee as follows:

"Unlike many lending institutions handling real estate mortgages First Federal completely processes the loan internally. Thus, when the above referenced loan was closed on June 2, 1977 you were charged an initial service charge of \$476.00. Although no precise breakdown can be given, it certainly can be construed that said charge includes mortgage approval, credit fee, attorneys fee, and loan servicing for the life of the loan. Under the current conditions some lending institutions would charge a credit investigation fee of approximately \$10.00 to \$15.00, and an attorneys fee of approximately \$200.00, with an appraisal fee of between \$50.00 and \$75.00."

Our decision has been requested whether the above statement constitutes a sufficient itemization of the loan origination fee to permit reimbursement of certain of the services covered therein.

Reimbursement of real estate expenses incurred incident to a transfer of official station is authorized by 5 U.S.C. 5724a (1970). Regulations implementing that provision with respect to finance charges are found at para. 2-6.2d of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) and provide in pertinent part as follows:

"\* \* \* Notwithstanding the above, no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I,

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Public Law 90-321, and Regulation Z, issued pursuant by the Board of Governors of the Federal Reserve System \* \* \*."

Regulation Z, which is substantially the same as the above-cited provisions of the Truth in Lending Act (15 U.S. Code 1601 note), is published at 12 C.F.R. Part 226 (1977), and provides, in pertinent part, that:

"§226.4 Determination of finance charge.

"(a) General rule. Except as otherwise provided in this section, the amount of the finance charge in connection with any transaction shall be determined as the sum of all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, the seller, or any other person on behalf of the customer to the creditor or to a third party, including any of the following types of charges:

"(1) Interest, time price differential, and any amount payable under a discount or other system of additional charges.

"(2) Service, transaction, activity, or carrying charge.

"(3) Loan fee, points, finder's fee, or similar charge.

"(4) Fee for an appraisal, investigation, or credit report.

\* \* \* \* \*

"(e) Excludable charges, real property transactions. The following charges in connection with any real property

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transaction, provided they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this part, shall not be included in the finance charge with respect to that transaction:

"(1) Fees or premiums for title examination, abstract of title, title insurance, or similar purposes and for required related property surveys.

"(2) Fees for preparation of deeds, settlement statements, or other documents.

"(3) Amounts required to be placed or paid into an escrow or trustee account for future payments of taxes, insurance, and water, sewer, and land rents.

"(4) Fees for notarizing deeds and other documents.

"(5) Appraisal fees.

"(6) Credit reports."

In determining the reasonableness of any charge involved in the reimbursement of real estate expenses, it is important to note that FTR paragraph 2-6.2d also sets the standard for such a determination when it provides that expenses are reimbursable, " \* \* \* to the extent they do not exceed amounts customarily paid in the locality of the residence \* \* \*." Paragraph 2-6.3c provides that when determining the reasonableness of a charge, and the custom in the area, the local offices of the Department of Housing and Urban Development should be consulted since they maintain and can furnish current schedule of closing costs applicable to the area. With regard to the use of the schedules, the same section provides that:

" \* \* \* For the purpose of determining whether expenses claimed are reasonable and may be approved for reimbursement, these closing costs should be used as guidelines and not as rigid limitations \* \* \*."

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Our Office has held that a loan origination fee which is in the nature of service charges incident to the extension of credit and is determined on a fixed percentage basis without regard to the type or extent of services actually performed is a finance charge within the meaning of 15 U.S.C. 1605 and Regulation Z. Stephen V. Fowkes, B-187223, February 18, 1977. Accordingly, the \$476 loan origination fee claimed by Mr. Smith is a finance charge for the purposes of paragraph 2-6.2d of the FTR. Since that paragraph specifically precludes payment of finance charges, no amount of a loan origination fee may be reimbursed in the absence of an itemized statement by the lender indicating with particularity the exact portion of the loan fee attributable to services which are excluded by 12 C.F.R. 226.4(e) from the computation of a finance charge. James Y. Kurihara, B-164746, December 19, 1975.

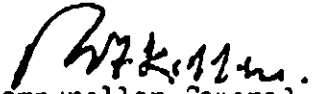
In the present case, the loan officer has stated that "no precise break down" can be given of the charges included within the loan origination fee. The examples of itemized charges provided only an approximate range of fees, and was attributed to "some lending institutions" - not necessarily including First Federal. Finally, the approximate fees set forth by the loan officer fail to account for the full amount of the finance charge. We have held that where a lending institution merely provides an estimate of its charges, or otherwise deficient information, the record is not sufficient to make a determination of reasonableness, thus precluding reimbursement. 54 Comp. Gen. 827 (1975). Since the record here consists only of estimates of charges assessed by lenders other than First Federal, no determination of reasonableness can be made and the claim may not be paid.

We point out that our decision in George W. Lay, 56 Comp. Gen. 561 (1977) is not applicable in this case. Our decision in Lay concerned the reimbursement of legal fees under FTR para. 2-6.2c. However, reimbursement of the finance charge claimed here is governed by FTR para. 2-6.2d and Regulation Z. Since the latter authorities prohibit reimbursement of finance charges, except for certain narrowly drawn specific services, itemization is required in order to identify the services performed and whether they may be paid. Thus although itemization is not generally required where legal fees are claimed under FTR para. 2-6.2c, any legal or attorneys fees which comprise an integral part of a finance charge

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assessed under Regulation Z must be itemized, and reimbursement may only be made for the specific items which are excluded by 12 C.F.R. 226.4(e) from the computation of the finance charge.

In accordance with the foregoing, absent an itemized statement from the lender identifying with specificity the lender's own actual fees which comprise the finance charge, Mr. Smith's claim for reimbursement of the loan origination fee may not be paid.

  
Deputy Comptroller General  
of the United States